

Message Text

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ORIGIN ACDA-10

INFO OCT-01 ISO-00 FEA-01 CIAE-00 INR-07 IO-13 L-03
NSAE-00 NSC-05 EB-08 NRC-05 OES-07 DODE-00
ERDA-05 SS-15 SP-02 PM-05 OIC-02 EUR-12 /101 R

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OES/NET:JCOON
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-----011833 070533Z /13

R 051737Z AUG 77
FM SECSTATE WASHDC
TO AMEMBASSY VIENNA
INFO USMISSION GENEVA

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USIAEA, USSALTTWO (FOR MCNEILL), ALSO FOR MISSION (CCD DEL)

E.O. 11652: N/A (DECONTROL 12/31/77)

TAGS: IAEA, PARM, TECH

SUBJECT: IAEA AD HOC ADVISORY GROUP ON NEPP: SUPPLEMENTARY
INSTRUCTIONS

REF: STATE 178811

THIS TELEGRAM CONTAINS DETAILED USG VIEWS CONCERNING
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COMMENTS ON GROUP REPORT CONTAINED IN DOCUMENT GOV/COM.23/30.
REFERENCES ARE TO PARAS IN GOV/COM. 23/28 ANNEX.

1. INTRODUCTION (CHAPTER 1)

A. PARA 3. (GDR). BRACKETS AROUND PHRASE "AND WAS ADOPTED
BY CONSENSUS" CAN BE REMOVED.

B. PARA 4. (FRG). WE HAVE NO OBJECTION TO INCLUDING DEFINITION
OF TERM "INTERNATIONAL SERVICE FOR NUCLEAR EXPLO-

SIONS FOR PEACEFUL PURPOSES" IF ACCEPTABLE ONE CAN BE DEVELOPED. HOWEVER, WE DO NOT BELIEVE A DEFINITION IS NECESSARY.

C. PARA 4. (FRG). IN OUR VIEW ASSISTANCE COULD BE PROVIDED BY INDIVIDUALS AND ENTERPRISES AS SUGGESTED BY FRG COMMENTS BUT ONLY UNDER AUSPICES OF PARTY TO PNE SERVICES AGREEMENT. THIS WOULD BE NECESSARY TO ENSURE THAT PROVISIONS OF PNE AGREEMENT WERE COMPLIED WITH. WE BELIEVE FRG POINT COULD BE MADE SIMPLY BY REPLACING WORD "FROM" IN NEXT TO LAST LINE OF PARA 4 WITH WORD "THROUGH".

D. PARA 4, LINE 7. (INDIA). PROPOSAL TO ADD PARENTHETICAL PHRASE "UNDER ARTICLE V OF NPT" IS NOT ACCEPTABLE. STATEMENT THAT NUCLEAR EXPLOSION RELATED SERVICES COULD BE PROVIDED ONLY BY NUCLEAR-WEAPON STATES SHOULD NOT BE QUALIFIED IN ANY WAY.

E. PARA 4, LINE 14. (INDIA). PROPOSAL TO ADD PHRASE "ANY STATE OR STATES WHETHER PARTY TO THE NPT OR NOT" AFTER "NON-NUCLEAR-WEAPON STATES" IS CONFUSING AND COULD BE TAKEN TO IMPLY THAT TERMS NWS AND NNWS APPLY ONLY TO NPT PARTIES. HOWEVER, WE WOULD HAVE NO OBJECTION TO SUBSTITUTED LIMITED OFFICIAL USE

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TUTING PROPOSED PHRASE FOR TERMS "NUCLEAR-WEAPON STATES" AND "NON-NUCLEAR-WEAPON STATES".

2. PROCEDURAL ASPECTS RELATING TO POSSIBLE REQUESTS FOR PNE-RELATED SERVICES (CHAPTER 2).

A. TITLE. (FRG). PROPOSED CHANGE ACCEPTABLE.

B. PARA 1, LINE 13. PROPOSED EDITORIAL CHANGE ACCEPTABLE.

C. PARA 2, LINE 2. PROPOSED EDITORIAL CHANGE ACCEPTABLE.

D. PARA 2, LINE 5. PROPOSED EDITORIAL CHANGE ACCEPTABLE.

3. LEGAL ASPECTS AND TREATY OBLIGATIONS (CHAPTER 3).

A. PARA 9. (FRG). PROPOSED CHANGE ACCEPTABLE.

B. PARA 10. (FRG). PROPOSED CHANGE ACCEPTABLE IF PHRASE (CONTAINED IN GUIDELINES AND DRAFT REPORT) "OR WITH PROVISIONS IN OTHER INTERNATIONAL AGREEMENTS CALLING FOR SUCH OBSERVATION" IS ADDED AT END OF FIRST SENTENCE OF REVISED PARA.

C. PARA 11. (FRG). PROPOSED CHANGE ACCEPTABLE IF LAST THREE WORDS ("BY THE AGENCY") ARE DELETED. IT HAS NOT

BEEN DECIDED BY THE NPT PARTIES THAT THE "APPROPRIATE INTERNATIONAL PROCEDURES" REFERRED TO IN ARTICLE V ARE TO BE ESTABLISHED BY THE AGENCY.

D. PARA 12. (FRG). PROPOSED CHANGE ACCEPTABLE.

E. PARAS 26-28. (INDIA). PROPOSED DELETION NOT ACCEPTABLE. WE BELIEVE THAT COMMUNICATIONS RECEIVED BY THE AGENCY FROM MEMBER STATES REGARDING THE EXPORT OF NUCLEAR

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MATERIAL AND OF CERTAIN CATEGORIES OF EQUIPMENT AND OTHER MATERIAL ARE BOTH GERMANE AND RELEVANT TO A CONSIDERATION

OF THE LEGAL ISSUES RELATING TO PNE SERVICES AND THEREFORE HAVE PROPERLY BEEN INCLUDED IN THE REPORT.

4. FACTORS INVOLVED IN THE ESTABLISHMENT AND OPERATION OF AN INTERNATIONAL SERVICE FOR NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES. (CHAPTER 7)

A. WHOLE CHAPTER. (SWEDEN). SEE REFTTEL PARA 4(D)3.

B. WHOLE CHAPTER. WE QUESTION WHETHER CHAPTER IS REALLY NECESSARY AND WOULD PREFER TO HAVE IT DELETED. WE WOULD NOT INSIST ON DELETION, HOWEVER, IF MOST OTHER DELS WISH TO HAVE CHAPTER RETAINED.

C. PARA 2. (FRG). PROPOSED CHANGE NOT REPEAT NOT ACCEPTABLE. WE BELIEVE LANGUAGE OF DRAFT REPORT MORE ACCURATELY REFLECTS GROUP'S INTERPRETATION OF ITS MANDATE.

D. PARA 3(III). (FRG). PROPOSED CHANGE NOT REPEAT NOT ACCEPTABLE. AGENCY SHOULD NOT HAVE ROLE IN IMPLEMENTING NON-DISCRIMINATION PROVISIONS OF NPT.

E. PARA 3(III). (UK). DEL SHOULD SUPPORT PROPOSED DELETION. WE CAN, HOWEVER, LIVE WITH PARA AS CONTAINED IN DRAFT REPORT.

F. PARA 4. (FRG). PRINCIPAL EFFECT OF PROPOSED REVISION SEEMS TO BE TO GIVE AGENCY THE TASK OF ESTABLISHING THE "APPROPRIATE INTERNATIONAL PROCEDURES" REFERRED TO IN ARTICLE V. THIS IS MATTER FOR NPT PARTIES TO DECIDE.
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THUS, PROPOSED REVISION IS NOT REPEAT NOT ACCEPTABLE.

G. PARA 6, FIRST SENTENCE. (JAPAN). PROPOSED CHANGE IS IMPROVEMENT.

H. PARA 6, THIRD SENTENCE. (UK). PROPOSED CHANGE IS ACCEPTABLE.

I. PARA 7. (FRG). SECOND SENTENCE OF PROPOSED REVISION SEEMS TO ASSUME THAT THE "APPROPRIATE INTERNATIONAL PROCEDURES" WOULD BE SEPARATE FROM THE INTERNATIONAL CONVENTION. NO SUCH DECISION HAS BEEN MADE; IN FACT THE FIRST SENTENCE SUGGESTS THE OPPOSITE. THEREFORE, PROPOSED REVISION IS NOT REPEAT NOT ACCEPTABLE. WE COULD ACCEPT STATEMENT TO EFFECT THAT THE AGENCY MIGHT PROVIDE THE CONFERENCE WITH "APPROPRIATE DOCUMENTS" AS A BASIS FOR NEGOTIATION.

J. PARA 8. (UK). DEL MAY SUPPORT RETENTION THIS PARA.

K. PARA 9. (JAPAN, UK, US, FRG). WE CANNOT ACCEPT ANY DEADLINE FOR DECISION ON FUTURE STEPS. PHRASE IN BRACKETS SHOULD BE DELETED.

5. SOME PRINCIPLES OR MATTERS TO BE CONSIDERED ... (CHAPTER 8).

A. WHOLE CHAPTER. (SWEDEN). WE BELIEVE GENERAL STRUCTURE AND CONTENT OF CHAPTER 8 TO BE SATISFACTORY.

B. TITLE. (FRG). AS WE UNDERSTAND CHAPTER, IT IS INTENDED TO DEAL WITH CONTENT OF AGREEMENTS NECESSARY UNDER ARTICLE V. WE BELIEVE PRESENT TITLE ACCURATELY REFLECTS THAT PURPOSE. PROPOSED REFERENCE TO "FORMULATING INTERNATIONAL ARRANGEMENTS AND APPROPRIATE INTERNATIONAL PROCEDURES" LIMITED OFFICIAL USE
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APPEARS TO BE FURTHER ATTEMPT TO EXPAND IAEA ROLE AND IS NOT REPEAT NOT ACCEPTABLE.

C. PARA 1 AND OTHER PARAS. (FRG). IT IS PROPOSED THAT THE PHRASE "ARRANGEMENTS AND PROCEDURES" BE SUBSTITUTED FOR THE TERM "ARRANGEMENTS" WHENEVER IT OCCURS, SO THAT THE TERMINOLOGY OF ALL PARAS IS CONSISTENT. WE AGREE THAT CONSISTENT USAGE IS DESIRABLE, BUT DO NOT UNDERSTAND THE PERCEIVED DISTINCTION BETWEEN "ARRANGEMENTS" AND "PROCEDURES". NOR IS IT CLEAR WHETHER THE PROCEDURES ENVISIONED ARE THOSE REFERRED TO IN NPT ARTICLE V. FOR THESE REASONS, WE PREFER THE SIMPLE, GENERAL TERM "ARRANGEMENTS" TO DESCRIBE THE STEPS TAKEN TO IMPLEMENT ARTICLE V AND WOULD PREFER TO SEE TERMINOLOGY OF PARAS 3, 4, 6,

11, 12, 14, AND 19(II) CHANGED ACCORDINGLY.

D. PARA 5, FOOTNOTE. (INDIA). PROPOSAL TO REVISE FOOTNOTE TO REFLECT RESERVATIONS WITH TEXT OF DOCUMENT, RATHER THAN SIMPLY CROSS-REFERENCING TO OTHER DOCUMENTS IS NOT REPEAT NOT ACCEPTABLE. RULES OF GROUP PRESCRIBE THAT REPORT IS TO BE CONSENSUS DOCUMENT. FOOTNOTE CONVEYING "RESERVATIONS" BREACHES THIS PRINCIPLE AND COULD OPEN GATES TO FLOOD OF OTHER "RESERVATIONS".

E. PARA 8. (FRG). THIS REPRESENTS ATTEMPT TO REOPEN HIGHLY CONTROVERSIAL ISSUE. WE DO NOT BELIEVE THAT NON-NPT PARTIES HAVE A RIGHT TO PARTICIPATE IN ESTABLISHMENT OF MEASURES TO IMPLEMENT ARTICLE V. PROPOSED REVISION IS NOT REPEAT NOT ACCEPTABLE.

F. PARA 9. (FRG). THE PROPOSED REVISION NARROWS THE POINT AND IS THUS NOT REPEAT NOT ACCEPTABLE. WE CONTINUE TO BELIEVE THAT ALL INTERNATIONAL PROJECTS INVOLVING THE LIMITED OFFICIAL USE
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SUPPLY OF NUCLEAR EXPLOSION RELATED SERVICES SHOULD BE SUBJECT TO OBSERVATION BY THE AGENCY, NOT JUST THOSE CONDUCTED PURSUANT TO ARTICLE V.

6. SOME ALTERNATIVE INTERNATIONAL LEGAL INSTRUMENTS ...
(CHAPTER 9).

A. PARA 1. (FRG). THE PROPOSED ADDITION SEEMS PEDANTIC IN THE EXTREME AND OUT OF PLACE. WE DO NOT REPEAT NOT BELIEVE IT SHOULD BE ACCEPTED.

B. PARA 5, BETWEEN FIRST TWO SENTENCES. (FRG). THE PROPOSED ADDITION IS NOT ACCEPTABLE. HOW THE "APPROPRIATE INTERNATIONAL PROCEDURES" ARE TO BE ESTABLISHED IS A MATTER FOR THE NPT PARTIES TO DETERMINE, NOT THE IAEA.

C. PARA 5, LINE 17 AND SUBSEQUENT. (FRG). PROPOSED REVISION IS ACCEPTABLE IF PHRASE "THESE RESPECTIVE TREATY OBLIGATIONS" IS MODIFIED TO "THEIR RESPECTIVE TREATY OBLIGATIONS" (AS IN DRAFT REPORT) AND LANGUAGE ALONG LINES OF DELETED SENTENCE ("THE ARRANGEMENTS AND PROCEDURES MIGHT NOT BE THE SAME FOR ALL NON-NUCLEAR-WEAPON STATES") IS INSERTED.

D. PARA 6, FIRST LINE. (FRG). PROPOSED CHANGE IS NOT REPEAT NOT ACCEPTABLE FOR REASON STATED IN (B).

E. PARA 6, THIRD SENTENCE. (FRG). PROPOSED ADDITION OF REFERENCE TO PROCEDURES IS NOT REPEAT NOT ACCEPTABLE FOR REASONS STATED IN (B).

F. PARA 7. (FRG). PROPOSAL TO HAVE AGENCY ESTABLISH
"APPROPRIATE INTERNATIONAL PROCEDURES" IS NOT ACCEPTABLE.
AS NOTED BEFORE, HOW SUCH PROCEDURES ARE TO BE ESTABLISHED
IS MATTER FOR NPT PARTIES TO DECIDE.

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G. PARA 11. (FRG). FOR REASONS NOTED ABOVE, PROPOSED
REFERENCE TO APPROPRIATE INTERNATIONAL PROCEDURES IS NOT
REPEAT NOT ACCEPTABLE.

H. PARA 12. (FRG). FOR REASONS NOTED EARLIER, PROPOSED
REFERENCES TO APPROPRIATE INTERNATIONAL PROCEDURES AND
AGENCY RESPONSIBILITY FOR ESTABLISHING THEM ARE NOT REPEAT
NOT ACCEPTABLE.

I. ALTERNATIVE III. (UK). WE BELIEVE DISCUSSION OF THIS
ALTERNATIVE SHOULD BE RETAINED IN THE REPORT IN PRESENT
FORM, BUT IF BROAD SUPPORT DEVELOPS FOR UK PROPOSAL,
DEL MAY JOIN IN CONSENSUS. CHRISTOPHER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 22-Sep-1999 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INSTRUCTIONS, SCIENTIFIC MEETINGS, PEACEFUL NUCLEAR EXPLOSIONS,
Control Number: n/a
Copy: SINGLE
Sent Date: 05-Aug-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE184387
Document Source: ADS
Document Unique ID: 00
Drafter: ACDA/MA:RMIKULAK:LSQ
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Expiration:
Film Number: D770283-0978
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t197708117/baaaetlc.tel
Line Count: 298
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Message ID: 1089b350-c288-dd11-92da-001cc4696bcc
Office: ORIGIN ACDA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: STATE 178811
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 19-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1445235
Secure: OPEN
Status: NATIVE
Subject: IAEA AD HOC ADVISORY GROUP ON NEPP: SUPPLEMENTARY INSTRUCTIONS
TAGS: PARM, TECH, US, IAEA
To: VIENNA INFO GENEVA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/1089b350-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009